

### **REMARKS**

Reconsideration of the application in view of the above amendments and following remarks is respectfully requested.

#### **Status of the Claims**

Claims 1 and 2 have been amended.

Claims 3-11 were previously canceled without prejudice or disclaimer of the subject matter recited therein, with claims 7-11 having been canceled for being drawn to provisionally non-elected subject matter.

No new matter has been added.

Claims 1 and 2 are now pending in the application.

#### **Rejections under 35 U.S.C. §103**

Claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,506,071 to Tanaka et al. ("Tanaka").

Independent claim 1 has been amended to recite a surge protector including oxide films having "a Cr (chromium) concentration that is higher at an exterior surface than at an interior surface adjacent to the respective electrode member." Support for this amendment may be found, for example, on page 7, lines 9-22 of the Specification. It is respectfully submitted that the cited references, alone or in combination, do not teach or suggest at least this feature recited in claim 1.

Tanaka describes a glass tube sealed by two sealing electrodes made of an alloy and a copper thin film. In a "Comparison Example," Tanaka describes an electrode member having an alloy of "nickel 42%-Chromium 6%-iron 52%" and a "Cr<sub>2</sub>O<sub>3</sub> film." See Tanaka, col. 5, line 66 to col. 6, line 1. The Examiner asserts that this passage of Tanaka "discloses that oxide films having chromium enriched surface is used as part of the electrode member." Applicants respectfully disagree.

The oxide film of the presently claimed invention includes a non-uniform concentration of chromium throughout the oxide film including a greater concentration of chromium at its exterior

surface. As recited in amended claim 1, the presently claimed invention is directed to a surge protector including oxide films that have “a Cr (chromium) concentration that is higher at an exterior surface than at an interior surface adjacent to the respective electrode member.” Thus, the concentration of chromium is greater at its exposed surface, and is not uniform throughout the thickness of the oxide film. This configuration provides, for example, a durable exterior surface while exhibiting “excellent adherence” to the electrode member so that the service life of the surge protector is lengthened. *See* Specification, p. 7, lines 12-19.

At most, Tanaka teaches a  $\text{Cr}_2\text{O}_3$  film formed on the surface of a nickel, chromium, iron alloy electrode member. This is not comparable to a film having a “chromium enriched surface” as asserted by the Examiner. It is merely an electrode member with a  $\text{Cr}_2\text{O}_3$  film. Further, Tanaka does not describe or contemplate varying the concentration of chromium within the  $\text{Cr}_2\text{O}_3$  film.

Thus, for at least the reasons described above, Tanaka does not render independent claim 1 obvious. Withdrawal of the rejection of claim 1 under 35 U.S.C. §103(a) is respectfully requested.

Claim 2 was rejected under 35 U.S.C. §103(a) as unpatentable over Tanaka in view of U.S. Patent No. 4,410,831 to Shigemori (“Shigemori”).

Amended independent claim 2 recites features similar to those discussed above with respect to claim 1, and Shigemori does not cure the deficiencies of Tanaka. Thus, for at least the reasons described above, a combination of Tanaka and Shigemori, to the extent proper, does not render independent claim 2 obvious.

Withdrawal of the rejection of claim 2 under 35 U.S.C. §103(a) is respectfully requested.

**CONCLUSION**

In view of the above amendments and remarks, Applicants believe the pending application is in condition for allowance and earnestly solicit same. If the Examiner believes there are any remaining issues which can be resolved by a Supplemental Amendment or an Examiner's Amendment, the Examiner is respectfully requested to telephone the undersigned at the telephone number indicated below.

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Respectfully submitted,

By 

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